



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

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NOV 18 2016

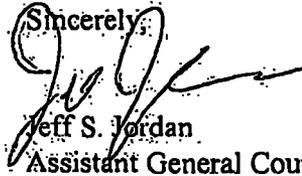
RE: MUR 7032

Dear Mr. McKeever and Ms. Stone:

On March 30, 2016, the Federal Election Commission notified your clients, Lisa Murkowski, Lisa Murkowski for US Senate, and Catherine Straub in her official capacity as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On November 15, 2016, the Commission found, on the basis of the information in the complaint, that there is no reason to believe that your clients violated the Act. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact Shanna M. Reulbach, the attorney assigned to this matter, at (202) 694-1638.

Sincerely,  
  
Jeff S. Jordan  
Assistant General Counsel

Enclosure  
Factual and Legal Analysis

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**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

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3 RESPONDENTS: Lisa Murkowski MUR 7032  
4 Lisa Murkowski for US Senate  
5 Catherine Straub, as treasurer  
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7 **I. INTRODUCTION**

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9 This matter was generated by a Complaint filed by Jed Whittaker (“Complainant”) on  
10 March 23, 2016, alleging violations of the Federal Election Campaign Act of 1971, as amended  
11 (the “Act”), and Commission regulations by Respondents Lisa Murkowski, Lisa Murkowski for  
12 US Senate and Catherine Straub in her official capacity as treasurer (collectively, “the  
13 Committee”). It was scored as a relatively low-rated matter under the Enforcement Priority  
14 System, a system by which the Commission uses formal scoring criteria as a basis to allocate its  
15 resources and decide which matters to pursue.

16 **II. FACTUAL AND LEGAL ANALYSIS**

17 **A. Factual Background**

18 The Complaint alleges that the Committee violated the Act or Commission regulations by  
19 using official Senate funds to pay for Murkowski and six other senators to travel to Bethel,  
20 Alaska, on a military aircraft.<sup>1</sup> Compl. at 1. According to the Complaint, on February 16, 2016;  
21 Murkowski and her Senate colleagues traveled to Bethel, purportedly to conduct a field hearing  
22 for the Senate Energy and Natural Resources Committee. *Id.* The Complaint alleges, however,  
23 that the true reason Murkowski arranged the trip and military transport was “because [she was]  
24 running for re-election.” *Id.* The Complaint asserts that the Senate committee could have, and

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<sup>1</sup> The Complainant concludes that Murkowski flew on a military transport based on photographs appearing in *Alaska Dispatch News* and on Murkowski’s website. Compl. at 1.

1 would have otherwise, gathered the desired information through an inexpensive teleconference.  
2 *Id.* Therefore, the Complaint concludes, the trip was a misuse of taxpayer money and the  
3 Committee should reimburse the Treasury for the cost of the military transport. *Id.*

4 The Committee acknowledges that the Bethel field hearing and use of a military transport  
5 occurred, but asserts that the trip was for official Senate business and involved no campaign  
6 activity. *Resp.* at 1-3. The Committee argues that the Complaint is vague and conclusory and  
7 fails to cite any specific campaign activity that took place during the trip. *Id.* at 1-2. The  
8 Committee also argues that the Complaint does not allege a violation of the Act or Commission  
9 regulations. *Id.* at 3. Instead, the Committee believes the Complaint is focused on the alleged  
10 improper use of federal funds. *Id.* at 2.

11 In support, the Committee attached three news articles to its Response about the February  
12 15, 2016<sup>2</sup> Senate field hearing and submitted an affidavit from Stephen Wackowski,  
13 Murkowski's campaign manager. *See id.*, Attach. A-C; Stephen Wackowski Aff. (Apr. 18,  
14 2016). The news articles state that Murkowski, five other senators, and the Energy Secretary  
15 conducted the hearing in Bethel and nearby towns to study the cost of energy in remote areas of  
16 Alaska and to discuss alternative energy sources. *Resp.*, Attach. A-C. None of the articles  
17 reference campaigns or campaign-related activities.<sup>3</sup> *See id.* In the affidavit, Wackowski states  
18 that the Bethel trip was official Senate business and was not paid for or planned by the

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<sup>2</sup> The articles reveal that the correct date of the hearing was February 15, not February 16. *Resp.*, Attach. A-C.

<sup>3</sup> One of the attached articles appears to be the *Alaska Dispatch News* article and corresponding photograph referenced by the Complaint. *See Resp.*, Attach. C.

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1 Committee. Wackowski Aff. at 1-2. Wackowski further attests that no campaigning occurred  
2 during the trip. *Id.*

3 **B. Legal Analysis**

4 The Act defines the term “contribution” to mean (1) “any gift, subscription, loan,  
5 advance, or deposit of money or anything of value *made by any person* for the purpose of  
6 influencing any election for Federal office;” or (2) “the payment *by any person* of compensation  
7 for the personal services of another person which are rendered to a political committee without  
8 charge for any purpose.” 52 U.S.C. § 30101(8)(A) (emphasis added). The Act excludes the  
9 federal government from the definition of “person.” *Id.* § 30101(11).

10 The Response, backed up by contemporaneous news reports, describes the Bethel trip as  
11 an official field hearing of the Senate Energy and Natural Resources Committee, attended by a  
12 bipartisan group of Senators and the Secretary of Energy. Respondents specifically deny and  
13 rebut with a sworn affidavit the allegation that Murkowski engaged in campaign-related activity  
14 on this trip. Moreover, because the federal government is not a “person” within the meaning of  
15 the Act, the Commission has recognized that it cannot make an illegal contribution to a  
16 candidate. *See Factual & Legal Analysis at 3 & n.6, MURs 6862 & 6874 (Landrieu) (“[N]o*  
17 *provision of the Act or Commission regulations governs the use or misuse of official government*  
18 *funds for campaign-related travel.”)*. Therefore, the Committee could not have accepted an  
19 illegal contribution from the federal government under the Act or Commission regulations by  
20 using official Senate funds to fly her there.

21 The Commission’s requirement that candidate committees disclose expenses for  
22 campaign-related travel “paid for . . . from a source other than a political committee,” does not

1 apply “to the extent that a candidate pays for travel expenses using funds authorized and  
2 appropriated by the Federal Government.” 11 C.F.R. § 106.3(b); Interpretation of Allocation of  
3 Candidate Travel Expenses, 67 Fed. Reg. 5,445 (Feb. 6, 2002). Accordingly, the Committee did  
4 not violate the Act by failing to disclose the cost of the military transport on its disclosure  
5 reports. The Commission therefore finds no reason to believe that the Committee violated the  
6 Act or Commission regulations.